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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160816746-6746-01]

RIN 0648-XE819

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery;

Proposed 2017-2018 Fishing Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes status quo commercial quotas for the Atlantic surfclam and ocean quahog fisheries for 2017 and projected status quo quotas for 2018. This action is necessary to establish allowable harvest levels of Atlantic surfclams and ocean quahogs that will prevent overfishing and allow harvesting of optimum yield. This action would also continue to suspend the minimum shell size for Atlantic surfclams for the 2017 fishing year. It is expected that the industry and dealers will benefit from the proposed status quo quotas, as they will be able to maintain a consistent market.

DATES: Comments must be received by *[Insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2016-0122, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2016-0122, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on the 2017-2018 Surfclam/Ocean Quahog Specifications.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter may be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the Environmental Assessment (EA), Supplemental Information Report (SIR), and other supporting documents for these proposed specifications are available from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. The EA and SIR are also accessible via the internet at: www.greateratlantic.fisheries.noaa.gov/.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, 978-281-9341.

SUPPLEMENTARY INFORMATION:

The Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP) requires that NMFS, in consultation with the Mid-Atlantic Council, specify quotas for surfclam and ocean quahog for up to a 3-year period, with an annual review. It is the policy of the Council that the catch limits selected allow sustainable fishing to continue at that level for at least 10 years for surfclams, and 30 years for ocean quahogs. In addition to this, the Council policy also considers the economic impacts of the quotas. Regulations implementing Amendment 10 to the FMP (63 FR 27481; May 19, 1998) added Maine ocean quahogs (locally known as Maine mahogany quahogs) to the management unit, and provided for a small artisanal fishery for ocean quahogs in the waters north of 43°50' N. lat., with an annual quota within a range of 17,000 to 100,000 Maine bu (0.6 to 3.524 million L). As specified in Amendment 10, the Maine ocean quahog quota is allocated separately from the quota specified for the ocean quahog fishery. Regulations implementing Amendment 13 to the FMP (68 FR 69970; December 16, 2003) established the ability to propose multi-year quotas with an annual quota review to be conducted by the Council to determine if the multi-year quota specifications remain appropriate for each year. NMFS then publishes the annual final quotas in the *Federal Register*. The fishing quotas must ensure overfishing will not occur. In recommending these quotas, the Council considered the most recent stock assessments and other relevant scientific information.

In June 2016, the Council voted to recommend maintaining the status quo quota levels of 5.33 million bu (284 million L) for the ocean quahog fishery, 3.40 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (3.52 million L) for the Maine ocean quahog fishery for 2017 and projected status quo quotas would be maintained in 2018.

Tables 1 and 2 show proposed quotas for the 2017 Atlantic surfclam and ocean quahog fishery along with projected quotas for 2018. By providing projected quotas for 2018, NMFS hopes to assist fishery participants in planning ahead. NMFS plans to reassess the status of the Atlantic surfclam and ocean quahog fishery in 2017. Final 2018 quotas will be published in the *Federal Register* before the start of the 2018 fishing year (January 1, 2018) based on the 2017 review.

Table 1 Proposed Atlantic Surfclam Measures

Year	Acceptable Biological Catch (ABC)	Annual Catch Limit (ACL)	Annual Catch Target (ACT)	Commercial Quota
2017	44,469 mt	44,469 mt	29,364 mt	3.40 million bu (181 million L)
2018 (projected)	45,524 mt	45,524 mt	29,364 mt	3.4 million bu (181 million L)

Table 2 Proposed Ocean Quahog Measures

Year	ABC	ACL	ACT	Commercial Quota
2017; 2018 (projected)	26,100 mt	26,100 mt	26,035 mt	Non-Maine Quota: 5.33 million bu (284 million L)
				Maine ACT: 100,000 Maine bu (3.52 million L)

The Atlantic surfclam and ocean quahog quotas are specified in “industry” bushels of 1.88 ft³ (53.24 L) per bushel, while the Maine ocean quahog quota is specified in Maine bushels of 1.24 ft³ (35.24 L) per bushel. Because Maine ocean quahogs are the same species as ocean quahogs, both fisheries are assessed under the same overfishing definition. When the two quota amounts (ocean quahog and Maine ocean quahog) are added, the total allowable harvest is below

the level that would result in overfishing for the entire stock.

Surfclams

The proposed 2017 status quo surfclam quota was developed after reviewing the results of the Northeast Regional Stock Assessment Workshop (SAW) 56 for Atlantic surfclam, released to the public in 2013. The surfclam quota recommendation is consistent with the SAW 56 finding that the Atlantic surfclam stock is not overfished, nor is overfishing occurring. Based on this information, the Council is recommending, and NMFS is proposing, to maintain the status quo surfclam quota of 3.40 million bu (181 million L) for 2017 (See Table 1).

Ocean Quahogs

The proposed 2017 non-Maine quota for ocean quahogs also reflects the status quo quota of 5.33 million bu (284 million L). In April 2013, the ocean quahog stock assessment was updated and found that the ocean quahog stock is not overfished, nor is overfishing occurring. After several decades of relatively low fishing mortality, the ocean quahog stock is still above the biomass target reference points.

The 2017 proposed quota for Maine ocean quahogs is the status quo level of 100,000 Maine bu (3.52 million L). The proposed quota represents the maximum allowable quota under the FMP.

This proposed rule also announces projected quotas for 2018. However, new stock assessments for both Atlantic surfclam and ocean quahog are pending and the results are expected to be available to the Council when it next reviews quotas for this fishery in June 2017. It is expected that the Council will use these assessment results to update the 2018 specifications as needed and recommend specifications for both fisheries for 2018 through 2020.

Surfclam Minimum Size

At its June 2016 meeting, the Council voted to recommend that the Regional Administrator suspend the minimum size limit for Atlantic surfclams for the 2017 fishing year. This action may be taken unless discard, catch, and biological sampling data indicate that 30 percent or more of the Atlantic surfclam resource have a shell length less than 4.75 inches (120 mm), and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

Commercial surfclam data for 2016 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 14.4 percent of the overall commercial landings were composed of surfclams that were less than the 4.75-in (120-mm) default minimum size. This percentage of small clams is higher than in most previous years; however, it is still below the 30-percent trigger. Based on the information available, the Regional Administrator concurs with the Council's recommendation, and is proposing to suspend the minimum size limit for Atlantic surfclams in the upcoming fishing year (January 1 through December 31, 2017).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal

rules.

This proposed rule is exempt from the requirements of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows:

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR § 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. In 2015, there were 358 fishing firms that held at least one surfclam or ocean quahog permit. Using the \$11.0 million cutoff for firms, there are 348 entities that are small and 10 that are large. In order to provide a more accurate count and description of the small directly regulated entities, landings data were evaluated to select only firms that were active in either the surfclam or ocean quahog fishery. There are 29 active fishing firms, of which 26 are small entities and 3 are large entities.

Because the proposed quotas are identical to those implemented for 2014-2016, the proposed action would have no impact on the way the fishery operates. These measures are expected to provide similar fishing opportunities in 2017 and 2018 when compared to 2015 (proxy for base year 2016). As such, revenue changes are not expected in 2017 and 2018 when compared to landings and revenues in 2015. Therefore, adoption of the proposed specifications

would have no impacts on entities participating in the fishery if landings are similar to those that occurred in 2015.

Maintaining the suspension of the surfclam minimum shell length requirement would result in no change when compared to 2014-2016. The minimum shell length requirement has been suspended each year since 2005. The proposed action would have no impact on the way the fishery operates, and is not expected to disproportionately affect small entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 16, 2016

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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